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Agenda

- The Whistleblower Program
- Filing a Claim
- Ethical considerations before you send off that 211

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Whistleblower

The IRS will pay money to people who blow the whistle on persons who fail to pay the taxes they owe. If the IRS proceeds with an administrative or judicial action, against a taxpayer, based on information provided by the whistleblower, it can award up to 30% of the additional tax, penalty and other amounts collected, including criminal fines and civil forfeitures, and violations of reporting requirements.



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Claim Process

- The whistleblower must submit IRS Form 211 "Application for Award for Original Information" that is signed and submitted under penalties of perjury.
- The Form 211 should contain the following:
 1. A description of tax noncompliance including a written narrative explaining the issue
 2. Information to support narrative such as location of assets, ledger sheets, receipts, bank records, contracts, emails, copies of books and records.
 3. Description of documents or supporting evidence not in whistleblower's possession, and their location.
 4. Explanation of how whistleblower became aware of information.
 5. Description of the whistleblowers present or former relationship to the subject of claim.

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Form 211 (July 2018)		Department of the Treasury - Internal Revenue Service Application for Award for Original Information		OMB Number 1545-0409 Date Claim received _____ Claim number (completed by IRS) _____													
Section A - Information About the Person or Business You Are Reporting																	
1. Is this: <input type="checkbox"/> New submission or <input type="checkbox"/> Supplemental submission (If a supplemental submission, list previously assigned claim number(s))				2. Last 4 digits of Taxpayer Identification Number(s) (e.g., SSN, TIN, or EIN)													
3. Name of taxpayer (include aliases) and any related taxpayers who committed the violation																	
4. Taxpayer's address, including ZIP code				5. Taxpayer's date of birth or approximate age													
6. Name and title and contact information of IRS employee to whom violation was first reported, if known																	
7. Alleged Violation of Tax Law (check all that apply): <input type="checkbox"/> Income Tax <input type="checkbox"/> Employment Tax <input type="checkbox"/> Estate & Gift Tax <input type="checkbox"/> Tax Exempt Bonds <input type="checkbox"/> Employee Plans <input type="checkbox"/> Governmental Entities <input type="checkbox"/> Exempt Organizations <input type="checkbox"/> Excise <input type="checkbox"/> Other (identify) _____																	
8. Describe the Alleged Violation. State all pertinent facts to the alleged violation. (Attach a detailed explanation and include all supporting information in your possession and describe the availability and location of any additional supporting information not in your possession.) Explain why you believe the act described constitutes a violation of the tax laws.																	
9. Describe how you learned about and/or obtained the information that supports this claim. (Attach sheet if needed)																	
10. What is your relationship (current and former) to the alleged noncompliant taxpayer(s)? Check all that apply. (Attach sheet if needed) <input type="checkbox"/> Current Employee <input type="checkbox"/> Former Employee <input type="checkbox"/> Attorney <input type="checkbox"/> CPA <input type="checkbox"/> Relative/Family Member <input type="checkbox"/> Other (specify) _____																	
11. Do you still maintain a relationship with the taxpayer? <input type="checkbox"/> Yes <input type="checkbox"/> No																	
12. If yes to number 11, describe your relationship with the taxpayer																	
13. Are you involved with any governmental or legal proceeding involving the taxpayer? <input type="checkbox"/> Yes <input type="checkbox"/> No																	
14. If yes to number 13, explain in detail. (Attach sheet if needed)																	
15. Describe the amount of tax owed by the taxpayer(s). Provide a summary of the information you have that supports your claim as to the amount owed (i.e., books, ledgers, records, receipts, tax returns, etc.). (Attach sheet if needed)																	
16. Fill in Tax Year (TY) and Dollar Amount (\$), if known <table border="1"> <thead> <tr> <th>TY</th> <th>\$</th> <th>TY</th> <th>\$</th> <th>TY</th> <th>\$</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>						TY	\$	TY	\$	TY	\$						
TY	\$	TY	\$	TY	\$												
Section B - Information About Yourself																	
17. Name of individual claimant		18. Claimant's date of birth (MM/DD/YYYY)		19. Last 4 digits of Claimant's SSN or ITIN													
20. Are you currently an IRS employee? <input type="checkbox"/> Yes <input type="checkbox"/> No		21. Are you the spouse or a dependent of an IRS employee? <input type="checkbox"/> Yes <input type="checkbox"/> No		22. Are you currently an IRS contractor? <input type="checkbox"/> Yes <input type="checkbox"/> No													
23. Are you a Federal, State or Local Government employee? <input type="checkbox"/> Yes <input type="checkbox"/> No		24. Address of claimant, including ZIP code		25. Telephone number (including area code)													
26. Email address		27. Declaration under Penalty of Perjury I declare that I have examined this application, all accompanying statement and supporting documentation, and, to the best of my knowledge and belief, they are true, correct, and complete															
Signature of Claimant _____		Date _____															
Catalog Number 150710		www.irs.gov		Form 211 (Rev. 7-2018)													

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What to Expect After a Claim is Mailed

- If the information is speculative, not credible, not specific, the IRS will send the whistleblower a claim rejection.
- If the IRS decides the claim should be further investigated, it will be forwarded to a Subject Matter Expert for review.
- An expert may or may not debrief the whistleblower about the information submitted.
- On average, it is taking 10 years or longer to complete the claim process.



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We are responding to your request for information on the status and stage of your claim referenced above. Internal Revenue Code (IRC) section 6103(k)(13) requires that the Whistleblower Office provide this notice to you. Your claim is currently open. The subject of your claim is currently in the OD Field/Investigation stage.

The OD Field/Investigation stage includes claims sent to the various Operating Divisions. This stage includes claims for which the subject taxpayer is under Operating Division ("OD") Field Examination, under review by the OD's Subject Matter Experts, and under initial review by the Criminal Investigation Division.

We are unable to provide additional information at this time. It is important to understand that it could take several years until a determination can be reached on this claim. This notification does not mean your claim will result in an award.

Disclosure of the information contained in this letter to any person, except as authorized by USC Title 26, may be a felony punishable by a fine in an amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution under IRC 7213(a)(2).

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Requesting an Update

- When calling the whistleblower office, they will only tell the whistleblower if a claim is open or closed. They will **not** provide information on whether an action was taken such as an audit, or criminal investigation over the phone.
- The IRS will only provide claim information if they are responding to a written request for a Status and Stage update or as part of a determination letter. It must meet the following criteria:
 1. Request must be in writing.
 2. Whistleblower must have filed the Form 211.
 3. The request must be made by the whistleblower's agent with an executed form 2848.
 4. Must state the claim number.



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Dear Eric L. Green:

We received your correspondence dated October 15, 2019. Your claim is still open and under active consideration. We are unable to give you any specific information due to (Section 6103 of the Internal Revenue Code) Federal Disclosure and privacy laws that protect tax information for all taxpayers.

If you move or change the address to which you want correspondence directed, you **must** inform this office in writing of the change of address. Failure to notify this office of a change of address regarding this claim could result in you not receiving time-sensitive correspondence.

Additional information about the whistleblower claim process can be found in Publication 5251, *The Whistleblower Claim Process*. Publication 5251 can be found online at IRS.gov.

If you have further questions about your claim, please call or write the Whistleblower Office at the address below or call 801-620-2169.

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Awards

- The IRS will pay an award of at least 15% but not more than 30% of the proceeds collected attributable to the information submitted by the whistleblower.
- Awards will be processed as either a 7623(b) award or a discretionary 7623(a) award.
- To qualify for the IRC section 7623(b) award the information must relate to a tax noncompliance matter in which the tax, penalties, interest, additions to tax and additional proceeds in dispute exceed \$2,000,000 and relate to a taxpayer whose gross income exceeds \$200,000 for at least one of the tax years in question.
- If the submission does not meet criteria for IRC section 7623(b) then the IRS will consider it for the discretionary program under IRS section 7623(a).



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What if I know stuff about my clients....

- Can we just whistleblow and collect if we know our client is cheating?
- What if they are a former client?
- What if they were at my old firm and were not my actual client but one of the firm?

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Do you have exposure?

- Before you seriously consider blowing the whistle....
- How much exposure do you have?
- You cannot put the genie back in the lamp once you let it out!



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Ethical Standards

- Circular 230
- AICPA Code of Professional Conduct
- Revised AICPA Statements on Standards for Tax Services – Exposure Draft
- Enrolled Agent Code of Ethics and Rules of Professional Conduct (11/09/2019)
- ABA Model Rule 1.6(b) – Must maintain confidences except if there is imminent harm, then disclosure can be considered

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Ethical Standards: Circular 230

- 10.21 – Knowledge of Client's Omission, Error, or Non-Compliance
- Duty – Must advise the client promptly and discuss consequences
 - Document this in your file!

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AICPA Code of Professional Conduct

1.700 – Confidential Client Information – Member shall not disclose any confidential client information without the client's specific consent

- Does not prohibit a member's compliance with applicable laws and regulations
- Third-party rule – Member should seek legal counsel

Enrolled Agent Code of Ethics and Rules of Professional Conduct

Code of Ethics

1. Paragraph #4 – Maintain the confidentiality of professional relationships
2. Paragraph #6 – Comply with Circular 230
3. Paragraph #7 – Authority to withdraw

Enrolled Agent Code of Ethics and Rules of Professional Conduct

Rules of Professional Conduct

1. Paragraph #3 – Maintain a confidential relationship between themselves and clients and former clients
2. May disclose only when authorized or legally obligated to do so
3. Paragraph #17 – Advise a client if EA suspects the client may have not complied with the revenue laws or may have made an error or omission
4. Paragraph #18 – Authority to withdraw
5. Paragraph #20 – Obligation to protect the former client's interest

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Questions



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